

FILED  
U.S. DISTRICT COURT

Name & Number: Matt Killough #32022  
Attorney Pro Se  
Utah State Prison  
PO Box 250  
Draper, Utah 84020

2018 APR 18 AM 11:21  
RECEIVED CLERK  
DISTRICT OF UTAH  
MAR 22 2018  
U.S. DISTRICT COURT

IN THE UNITED STATES DISTRICT COURT, DISTRICT OF UTAH  
CENTRAL DIVISION

Matt Killough, Plaintiff,  
vs.  
Bruce O. Burnham, MD et al; JOHN DOES 1-10, employees at Utah State Prison, individually, Defendants.)  
Case: 2:18-cv-00250  
Assigned To : Waddoups, Clark  
Assign. Date : 3/22/2018  
Description: Killough v. Burnham, et al  
CIVIL RIGHTS COMPLAINT AND  
DEMAND FOR JURY TRIAL  
Pursuant to 42 U.S.C. §1983

JURISDICTION

1. Plaintiff Matt Killough is a citizen of Utah, who presently resides at the Utah State Prison, P.O. Box 250, Draper, Utah 84020.
2. Defendant BRUCE O. BURNHAM is a citizen of Utah, and is employed as the Medical Director at the Utah State Prison for the Utah Department of Corrections. At the time the claim(s) alleged in this complaint arose, this defendant was acting under color of state law in that he/she is the Medical Director at the Utah State Prison for the Utah Department of Corrections and is directly responsible for the wrongful actions alleged herein.

## CIVIL COVER SHEET

Case 2:18-cv-00250-CW Document 4 Filed 04/18/18 Page 2 of 10  
 The information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

FS Matt Killough #3222

County of Residence of First Listed Plaintiff Utah  
 (EXCEPT IN U.S. PLAINTIFF CASES)

DEFENDANTS Bruce O. Burnham MD, Alfred Cigler  
David L. Gandy, MD, Kenneth Tubbs, MD  
Mike Haglund, LSCW, Rob Pendleton, LSCW, Curtis Conner  
Tony Washington, Clinical Services Director, Level 3 Hearing  
 County of Residence of First Listed Defendant Utah  
A. Spokane Nilsen (IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

RECEIVED CLERK

(c) Attorneys (Firm Name, Address, and Telephone Number)

PRO SE

Attorneys (If Known)

MAR 22 2018

U.S. DISTRICT COURT

<b>II. BASIS OF JURISDICTION</b> (Place an "X" in One Box Only)		<b>III. CITIZENSHIP OF PRINCIPAL PARTIES</b> (Place an "X" in One Box for Plaintiff and One Box for Defendant)					
<input checked="" type="checkbox"/> 1 U.S. Government Plaintiff	<input checked="" type="checkbox"/> 3 Federal Question (U.S. Government Not a Party)	Citizen of This State	<input checked="" type="checkbox"/> PTF	<input checked="" type="checkbox"/> DEF	<input checked="" type="checkbox"/> PTF	<input checked="" type="checkbox"/> DEF	
<input type="checkbox"/> 2 U.S. Government Defendant	<input type="checkbox"/> 4 Diversity (Indicate Citizenship of Parties in Item III)	Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated or Principal Place of Business In This State	<input type="checkbox"/> 4	<input type="checkbox"/> 4
		Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 5	<input type="checkbox"/> 5
			<input type="checkbox"/> 6	<input type="checkbox"/> 6		<input type="checkbox"/> 6	<input type="checkbox"/> 6

IV. NATURE OF SUIT (Place an "X" in One Box Only)

<b>CONTRACT</b>	<b>TORTS</b>		<b>FORFEITURE/PENALTY</b>		<b>BANKRUPTCY</b>		<b>OTHER STATUTES</b>	
	<input type="checkbox"/> 110 Insurance	<input type="checkbox"/> PERSONAL INJURY	<input type="checkbox"/> PERSONAL INJURY	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881	<input type="checkbox"/> 422 Appeal 28 USC 158	<input type="checkbox"/> 375 False Claims Act		
<input type="checkbox"/> 120 Marine	<input type="checkbox"/> 310 Airplane	<input type="checkbox"/> 365 Personal Injury - Product Liability	<input type="checkbox"/> 690 Other	<input type="checkbox"/> 423 Withdrawal 28 USC 157	<input type="checkbox"/> 400 State Reapportionment			
<input type="checkbox"/> 130 Miller Act	<input type="checkbox"/> 315 Airplane Product Liability	<input type="checkbox"/> 367 Health Care/ Pharmaceutical Personal Injury Product Liability		<b>PROPERTY RIGHTS</b>	<input type="checkbox"/> 410 Antitrust			
<input type="checkbox"/> 140 Negotiable Instrument	<input type="checkbox"/> 320 Assault, Libel & Slander	<input type="checkbox"/> 368 Asbestos Personal Injury Product Liability		<input type="checkbox"/> 820 Copyrights	<input type="checkbox"/> 430 Banks and Banking			
<input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment	<input type="checkbox"/> 330 Federal Employers' Liability			<input type="checkbox"/> 830 Patent	<input type="checkbox"/> 450 Commerce			
<input type="checkbox"/> 151 Medicare Act	<input type="checkbox"/> 340 Marine Liability			<input type="checkbox"/> 840 Trademark	<input type="checkbox"/> 460 Deportation			
<input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans)	<input type="checkbox"/> 345 Marine Product Liability	<b>PERSONAL PROPERTY</b>	<input type="checkbox"/> 710 Fair Labor Standards Act	<input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations				
<input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits	<input type="checkbox"/> 350 Motor Vehicle	<input type="checkbox"/> 370 Other Fraud	<input type="checkbox"/> 720 Labor/Management Relations	<input type="checkbox"/> 480 Consumer Credit				
<input type="checkbox"/> 160 Stockholders' Suits	<input type="checkbox"/> 355 Motor Vehicle Product Liability	<input type="checkbox"/> 371 Truth in Lending	<input type="checkbox"/> 740 Railway Labor Act	<input type="checkbox"/> 490 Cable/Sat TV				
<input type="checkbox"/> 190 Other Contract	<input type="checkbox"/> 360 Other Personal Injury	<input type="checkbox"/> 380 Other Personal Property Damage	<input type="checkbox"/> 751 Family and Medical Leave Act	<input type="checkbox"/> 850 Securities/Commodities/ Exchange				
<input type="checkbox"/> 195 Contract Product Liability	<input type="checkbox"/> 362 Personal Injury - Medical Malpractice	<input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 790 Other Labor Litigation	<input type="checkbox"/> 860 HIA (1395ff)				
<input type="checkbox"/> 196 Franchise			<input type="checkbox"/> 791 Employee Retirement Income Security Act	<input type="checkbox"/> 862 Black Lung (923)				
				<input type="checkbox"/> 863 DIFWC/DIWFW (405(g))				
				<input type="checkbox"/> 864 SSID Title XVI				
				<input type="checkbox"/> 865 RSI (405(g))				
				<b>FEDERAL TAX SUITS</b>				
				<input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant)				
				<input type="checkbox"/> 871 IRS—Third Party 26 USC 7609				
				<b>IMMIGRATION</b>				
				<input type="checkbox"/> 462 Naturalization Application				
				<input type="checkbox"/> 465 Other Immigration Actions				

V. ORIGIN (Place an "X" in One Box Only)

1 Original Proceeding  2 Removed from State Court  3 Remanded from Appellate Court  4 Reinstated or Reopened  5 Transferred from Another District (specify)  6 Multidistrict Litigation

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):  
 42 USC 1983

VI. CAUSE OF ACTION

Brief description of cause:

VII. REQUESTED IN COMPLAINT:  CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. DEMAND \$ CHECK YES only if demanded in complaint:  
 JURY DEMAND:  Yes  No

VIII. RELATED CASE(S) IF ANY

(See Instructions):

JUDGE

DOCKET NUMBER

DATE 3/22/18

SIGNATURE OF ATTORNEY OF RECORD

Matt Killough PRO SE

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFFP

JL

Case: 2:18-cv-00250  
 Assigned To: Waddoups, Clark  
 Assign. Date: 3/22/2018  
 Description: Killough v. Burnham, et al

3. Defendant David Lambert Egli MD is a citizen of Utah, and is employed as the Mental health psychiatrist at Olympus at the Utah State Prison for the Utah Department of Corrections. At the time the claim(s) alleged in this complaint arose, this defendant was acting under color of state law in that he/she is the Mental health psychiatrist at Olympus Mental Health for the Utah Department of Corrections and is directly responsible for the wrongful actions alleged herein.

4. Other Defendants by name and position, if known: David Lambert P  
Egli MD, Chris Abbott PA, Kennon Tubbs MD,  
Mike Heglund LCSW, John Gines, Roy Peck Jr LCSW,  
Curtis Gardner Hearing Officer, Debra Smith RN,  
Suzetta McPherson LCSW, Jason Jackman RN,  
Bruce O'Burnham MD, Tony Washington

5. Defendant John Does 1-10, whose true names are unknown and when true names are ascertained the pleadings will be amended accordingly, are citizens of Utah, and are employed at the Utah State Prison. At the time the claim(s) alleged in this complaint arose, these defendants were acting under color of state law in that they are employees for the Utah Department of Corrections and are directly responsible for wrongful actions alleged herein.

6. Jurisdiction is invoked pursuant to 28 U.S.C. §1333 (3); and 42 U.S.C. §1983.

**B. NATURE OF CASE (1).**

Petitioner claims that the respondents are failing to adequately treat the petitioner's serious mental health/medical conditions. Petitioner claims to have submitted HCR's forms to be seen by mental health providers and medical providers at the Draper USP CUCF who work for the Utah Department of Corrections and they refuse to adequately treat his mental health and medical conditions. Petitioner is being harassed and retaliated against

I have once by mistake printed out all my medical records, he has refused to tell me results of labs as false information in my medical records, he has refused to tell me results of labs as well as recommendations and outcomes of the ER room at G.V Hospital in Gunnison, Utah, this has happened more than once, one time he asked me "why?" what did they tell you at the hospital? I replied other Dr. asked me if I had been taking any aspirin and when I told her no she said to me because there was a high level of aspirin that showed up in your blood work. As soon as I said that Dr. Burnham slammed his fist hard down on top of some papers very hard right next to his computer and replied to me in a very angry threatening voice, I know what they said, its right here in these papers at which time he secured me and I replied I'm just trying to answer your question Sir, I'm not trying to argue with you it was like he didn't even want me to know what was said that's all I can think. Petitioner does not know if he is receiving adequate treatment or not! I know the prison does not have to go by the recommendations of outside specialists or even from the ER room because I've been told this for yrs and I'm still being told this by Dr. Burnham he has not to this day ever told me any recommendations from when I was sent to the ER in Gunnison, UT. I had to send for these records and I found out one time I went to the ER they had stated that if I have chest pain I should be put on 24hr heart monitor by Dr's not associated with the department of corrections or even from prison clinical STaff. Plaintiff claims that information from the plaintiff's medical records have been violated his rights to higher laws 1996 of health information privacy to where his medical and mental health records by Dr. Eggers who is a psychiatrist at the department of corrections who has been known on numerous occasions to violate by allowing prison officers to read inmates confidential records including my own right in front of me. Some of these inmates are still in prison some are not but are willing to go to court if needed this is not a isolated incident. Dr. Tubbs also done the same thing with the plaintiff's medical & mental health records at the Otero Facility with non medical staff a particular officer by the name of Bowman questioned Dr. Tubbs right in front of me about medical things that had nothing to do with safety or security of the institution the Dr. ever turned his computer at first toward me and talk over to read what was on it when I told Dr. Tubbs that I did not have my glasses that was when he said shit to me and turned the computer back to himself and began to read them out loud there was no reason and I asked him not to please there was no reason for the officers to be in there in the first place as I was already secured to the desk I was sitting in ? these officers always harassed me, after this meeting I was told by officers after I said I was going to file a grievance that they were going to make my life hell I was scared out ST, I am. Then officers Bowman stated you're here long enough, Killough you know how it works. Mike Higland who I told about all this I had filed a grievance or is aware of these types of actions going on there for years & going on in Olympics mental health as well as population now to this day! so does Ray Peckle a LCSW ? Shumway LCSW have also told lots of other therapist about this kind of STuff Davis as well, I've never been told diabetes was or ever could be a side effect of seroquel and when I first called Dr. Burnham if Seroquel can cause diabetes he laughed at me and said no this was when I seen him for the very first time in my life. I have never especially myself been told side effects of medications, not even now if I had been told I would of my own head diabetes, I took of chld, I beat it yes later when I stopped taking the Seroquel I never reached this medication. Seroquel I was told by Curtis Gardner in 2014 that he checked the website of the FDA and that diabetes was not one of the side effects of Seroquel, I trusted these people with my life to do what's right because they are in this high legal position to uphold the law we trust these people not to lie to me God helps out here at the hearing office if we cannot count on our keepers to keep us safe. In 2015 I received 716 pages from

Bo. Cor. iNUED Page 8

The FOA stating that diabetes, high cholesterol and low white blood count are all side effects of Serquel I also have medical records that will show I had all these problems I was even told by Dr. Egli that they don't tell all of the inmate of the side effects that's a chance they take they don't explain side effects I was told that by dr. Tubbs also I still to this day have serious side effects and they are refusing to treat the side effects they caused by giving me serquel I was told by dr. Blavis when I took him I was on 900mg of serquel, wellbutrin and effexor when I was at max dose "quote" "Dr. Blavis told me word for word that he would of never ever put me on that much serquel it was too much". side effects I still have are ties with my mouth and facial expressions won't go away my legs ache all the time and won't stop moving and I can't stand still and my feet feel like I'm walking on hot coals and needles all the time the prison refuses to treat these problems, I asked Dr. Burnham quote "could you please do some tests and tell me how bad my body has been messed up inside from having diabetes for so long, I have no pre-existing problems in my whole life or family history of diabetes or illness"

### C. Cause of Action

(b.) Plaintiff alleges that the following Constitutional rights, privileges or immunities have been violated and that the following facts form the basis for the allegations:

(1). 1. Count 1: Plaintiff's Sixth Amendment and Liberty interests to equal protection are denied by the defendant based upon the following: Plaintiff has been denied equal medical & mental health help and has brought it to the attention of Dr. Egli, Mike Hugland, Dr. K. Tubbs, Dr. Bruce Burnham MD, Dr. Blavis, Tony Washington

Continued

## C. Cause of Action

ON 7-24-16 /AT

On Burnham on one specific occasion I went to the ER at Garrison Valley hospital because of chest pain on this date and time, I was given no recommendation that I be placed on a 24 hr Holter monitor. Dr. Burnham told me no he was not going to get it. the very next day for a follow up he also showed anger towards me when I asked him if I could please get the holter monitor as if the money was coming out of his pocket. This is a very bad ongoing concern, and on Feb. 11-2018, I was told that as a part of this grievance which is on DR. Burnham "Clinical Services has since met with staff and re-emphasized the importance of Professionalism during appointments. So this element of your grievance has been addressed internally by the bureaus own Leadership. I urge you to continue to work with Medical Staff for optimal treatment results." As of this day 2-25-2018 I still have not been seen for the last time I feel and hurt myself and layed on my cell floor 2<sup>1</sup>/<sub>2</sub> to 3 hours the officer's would walk by during there late night checks but they where walking so fast even with me waving my hand just keep going. I finally made it to my bunk this truly goes on too. Please I cannot legal help from the Contract Attorneys at the prison will you all look at the Nature of Case part of this complaint as I think I put most of what ya'll are asking me here in that part,

- 2. Count II: Plaintiffs Eighth Amendment and Liberty Interests to be free from cruel and unusual punishment have been violated by Defendants actions in that -

Defendants Tony Washington, Dr. Burnham, Dr. Egli, Dr. Blavis Dr. Tibbs and Mike Haylund wouldn't let me go to Olympus mental health even after a psychiatrist ordered me to be transferred to Olympus Mike Haylund refused to send me in 2010 and even told the doctor the reason Mike Haylund was not going to let me go back over to Olympus mental health is because it was to hard to get rid of me the last time I was there and Dr. Dreaper MD let me hear Mr. Haylund L.C.S.W say that for myself and after Dr. Dreaper got off of the phone he told me quote "you in need of mental health therapy for being sexually molested by a mental health therapist years ago. Your mentally ill & need intensive therapy and to be stabilized on medication and the Dr. told my quote "it shouldn't have anything to do with you being to hard to get rid of the last time you was there in mental health because you needed to be there just like you do know to this day still receiving a lot of retaliation threats and harassment I did file a 1983 on being sexually molested by that therapist in 1989 I filed it in 1991 and in 1993 this case # 2:91-cv-00726 and for being threatened and harassed and put on death row for a year and never did anything wrong and was told by investigators not to file anything in court or even a grievance and they would let me out in a year I filed a 1983 which never made it to the court also filed grievances which have not come back or made it to the courts all of this can be proven and there are witnesses always in witness

- Other rights being violated (include amendments as appropriate)

#### D. INJURY

Describe how you were injured as a result of the claims herein:

Dr. Burnham has shown anger and violence toward me and it's in my dysfunctions. Dr. Burnham himself has caused me severe pain, suffering with regard to my lower back. I have fallen on numerous occasions and still have fresh scarring on both legs. I have reported it to Dr. Burnham and he was never examined to this day at least so bad that he can't even sleep at night. He or is staff in Gymnasium have helped me with this at all. I have asked if he could please get an up to date MRI. Doctor said it was foul PHT but no one turned in much \$1,000 off his membership or this problem but no help. I have an MRI done in 2007 that clearly shows my back is really bad and they keep putting in my medical file nothing more to be done. I had a new surgeon Dr. H. Lee on November 2008. Should get pain management and regular physical therapy & ask him if he could get physical therapy for my back and he told me no. He refused to see me & T the prison director said the appropriate appointment facilitated. The doctor since has been to him before and all he does is put a heating pad on my back and a finger whirligig shake your muscles which doesn't work at all and he's a VP like now its S.A. Dr. Gill on numerous occasions let officers read my mental health records. Mike McFerlun was mental health program director for a few yrs ago. Since he filed a grievance on him he has done nothing but refuse me accepted medical health care. The head psychiatrist on the prison in Ogden Dr. Blau is for the past five yrs at least will ask me and others what we want us for as medication and he orders whatever we ask for to get him on and he knows this because he's told him. The prison refuses to this day to withdraw and provide me with help with the substance that disables he causes me from talking. Scrapped for so many yrs Dr. Burnham flat out refuses to help me with the neuropathy in my feet they won't do it a day from now. I have all the records that will prove all of this. It can also acquire information from other inmates to the facts stated herein with regard to Dr. Blau's.

13. Plaintiff has not filed any other law suits in state or federal court dealing with the

facts involved in this action. But did file a 1983 law suit in this court in 1991 for forceable sexual assault by a mental health therapist, cruel and unusual punishment & threats from the criminal investigators unit at the Utah State Prison, was stricken out of court Settlement of \$1600.00

Plaintiff has previously sought informal or formal relief from the appropriate administrative officials regarding the acts complained of herein to no avail.

#### F. REQUEST FOR RELIEF

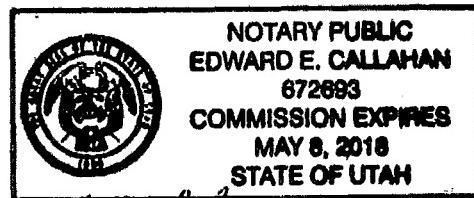
WHEREFORE, Plaintiff prays for the following relief:

- (a) Trial by jury.
- (b) That counsel be appointed to represent the Plaintiff in this action as he CAN'T spell OR Read enough to give him a fair chance for Justice please.
- (c) Punitive damages in the amount of \_\_\_\_\_.
- (d) Compensatory damages in the amount of \_\_\_\_\_.

- e) Grant attorney fees and court costs for this action.
- f) Such other and further relief the court deems just and proper.

DATED this 1 day of FEB, 2018

Matt Killough  
Plaintiff, Attorney pro se



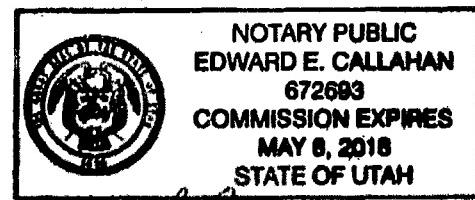
Edward E. Callahan

**DECLARATION UNDER PENALTY OF PERJURY**

The undersigned declares under penalty of perjury that he/she is the plaintiff in the above action, that he/she has read the above complaint and that the information contained therein is true and correct, and filed according to 28 U.S.C. Sec. 1976 and 18 U.S.C. Sec. 1621.

EXECUTED at Utah State Prison on FEB 12 2015

Marty Killough  
Plaintiff



SDW/EK